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Attorneys for Defendants NATIONAL SPC  
DAVID JACOBS and GREGG ADELSHE

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

SINO DISTRIBUTION NETWORK USA, LLC,  
A NEVADA LIMITED LIABILITY COMPANY ) Case No: 06CV 2338 JM RBB  
DBA RAD2GO AND RAD2GO, INC., A )  
CALIFORNIA CORPORATION, )  
Plaintiff, )  
v. )  
NATIONAL SPORTING GOODS, DAVID )  
JACOBS, GREG ADELSHEIMER AND DOES )  
1 THROUGH 20, INCLUSIVE )  
Defendants. )  
JOINT MOTION TO GRANT  
DEFENDANTS' RULE 12(b)(6)  
MOTION TO DISMISS AND  
ALLOW PLAINTIFFS LEAVE TO  
AMEND WITHIN 45 DAYS AND  
ORDER THEREON  
Date: April 13, 2007  
Time: 11:00 a.m.  
Judge: Honorable Jeffrey T. Miller  
Courtroom: 6

Plaintiffs SINO DISTRIBUTION NETWORK USA, LLC, A NEVADA LIMITED

LIABILITY COMPANY DBA RAD2GO and RAD2GO, INC., A CALIFORNIA

JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS  
AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER  
THEREON

1 CORPORATION, by and through their attorneys of record, Miller, King & James, LLP and  
2 Defendants NATIONAL SPORTING GOODS, DAVID JACOBS and GREG  
3 ADELSHEIMER, by and through their attorneys of record, Kirby Noonan Lance & Hoge LLP  
4 hereby make their joint motion for this Court to grant Defendants' currently pending Motion to  
5 Dismiss Plaintiffs' complaint on the grounds that Plaintiffs lacked the capacity to sue at the  
6 time their complaint was filed. Plaintiffs also acknowledge that, as of the date of this joint  
7 motion, they still lack the capacity to sue.

8 However, a dismissal is not to be immediately entered but instead the Plaintiffs shall be  
9 given forty-five (45) days within which to (i) bring the corporate Plaintiffs into good standing;  
10 and (ii) amend their complaint. If both of these conditions are not met within that forty-five  
11 (45) day period, the Court shall then enter a dismissal of the case with prejudice.

12 Dated: April 13, 2007

MILLER, KING & JAMES, LLP

13  
14 By: Patricia I. James  
15 David D. Miller  
16 Nicholas S. King  
17 Patricia I. James  
18 Attorneys for Plaintiffs

Dated: April 13, 2007

KIRBY NOONAN LANCE & HOGE LLP

19 By: Jacob M. Slania  
20 David J. Noonan  
21 Jacob M. Slania  
22 Lauren E. Butz  
23 Attorneys for Defendants

## ORDER

24 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Defendants' Motion  
25 to Dismiss is granted because Plaintiffs lacked the capacity to sue at the time their complaint  
26 was filed. Furthermore, Plaintiffs continue to lack the capacity to sue. However, a dismissal  
27 will not be immediately entered but, instead, the Plaintiffs shall be given forty-five (45) days  
28

JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS  
AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER  
THEREON

1 within which to (i) bring the corporate Plaintiffs into good standing; and (ii) amend their  
2 complaint. If both of these conditions are not met within that forty-five (45) day period, the  
3 case will be dismissed with prejudice.

4 Dated:

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6 Judge of the District Court  
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**JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS  
AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER  
THEREON**

**Sino Distribution Network v. National Sporting Goods, et al.  
Southern District of California, Case No. 06CV 2338 JM RBB**

**PROOF OF SERVICE**

I, Monica M. Dube, the undersigned declare that I am, and was at the time of service of the papers referred to herein, over the age of eighteen years, and not a party to the action. My business location is 707 Broadway, Suite 1800, San Diego, California 92101-5314. On April 13, 2007, I served a true copy of the following document on all interested parties in this action as follows:

**1. JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO  
DISMISS AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS  
AND ORDER THEREON.**

Jacob M. Slania, Esq.  
KIRBY NOONAN LANCE & HOGE LLP  
600 West Broadway, Suite 1100  
San Diego, California 92101-3387  
Facsimile (619) 231-9593

## Attorneys for Defendants

- U.S. MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Accordingly, the above-referenced document(s) were enclosed in a sealed envelope which, in the ordinary course of business, will be deposited with the United States Postal Service the same day; and said envelope was addressed as shown on the attached service list.

**BY FAX:** I transmitted a copy of the foregoing document(s) on this date by facsimile transmittal to the number shown on the service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 13, 2007 at San Diego, California.

Monica M. Dube

Monica M. Dube

**PROOF OF SERVICE**